

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION

WILLIE J. BEARD, ET AL

PLAINTIFFS

VS.

CIVIL NO. 1:04CV274-P-D

HAMMER LGC, INC.

DEFENDANT

**REPORT AND RECOMMENDATION**

On February 17, 2005, this court entered an order requiring these plaintiffs to show cause by March 1, 2005, why this case should not be dismissed for failure to prosecute. Neither plaintiff has responded to the order, and, in addition, the order addressed to plaintiff Joe Earl Porter was return by the United States Postal Service marked “not deliverable as addressed, unable to forward.” The court can only conclude that the plaintiffs have lost interest in the prosecution of this case.

Accordingly it is recommended that this case be dismissed without prejudice for failure to prosecute pursuant to F.R.Civ.P. 41(b).

The parties are referred to 28 U.S.C. 636(b)(1) and Local Rule 72.2(D) for the appropriate procedure in the event any party desires to file objections to these findings and recommendations. Objections are required to be in writing and must be filed within ten days of this date. Failure to file written objections to the proposed finding and recommendations contained in this report within ten days from the date of filing will bar an aggrieved party from challenging on appeal both the proposed factual findings and the proposed legal conclusions accepted by the district court *Douglass v. United Services Automobile Association*, 79 F.3d 1415 (5th Cir. 1996).

Plaintiff is directed to acknowledge receipt of this report and recommendation by signing the enclosed acknowledgment form and returning it to the court within ten days of this date.

Plaintiff is warned that failure to comply with the requirements of this paragraph may lead to the dismissal of this lawsuit under F.R.Civ.P. 41(b) for failure to prosecute and for failure to comply with an order of the court.

Respectfully submitted, this 8<sup>th</sup> day of March, 2005.

/s/Jerry A. Davis  
UNITED STATES MAGISTRATE JUDGE